

## § 1206.2-2

## 45 CFR Ch. XII (10-1-02 Edition)

### § 1206.2-2 Purpose.

This subpart establishes rules and review procedures for the denial of a current recipient's application for refunding.

### § 1206.2-3 Definitions.

As used in this subpart—"ACTION," "Director," and "recipient" shall be defined in accordance with § 1206.1-3.

*Financial assistance* and *assistance* include the services of volunteers supported in whole or in part with ACTION funds.

*Program account* means assistance provided by ACTION to support a particular program activity; for example, VISTA, Foster Grandparent Program, Senior Companion Program and Retired Senior Volunteer Program.

*Refunding* includes renewal of an application for the assignment of volunteers.

### § 1206.2-4 Procedures.

(a) The procedures set forth in paragraphs (b) through (g) of this section shall apply only where an application for refunding submitted by a current recipient is rejected or is reduced to 80 percent or less of the applied-for level of funding or the recipient's current level of operations, whichever is less. It is further a condition for application of these procedures that the rejection or reduction be based on circumstances related to the particular grant or contract. These procedures do not apply to reductions based on legislative requirements, or on general policy or in instances where, regardless of a recipient's current level of operations, its application for refunding is not reduced by 20 percent or more. The fact that the basis for rejecting an application may also be a basis for termination under subpart A of this part shall not prevent the use of this subpart to the exclusion of the procedures in subpart A.

(b) Before rejecting an application of a recipient for refunding ACTION shall notify the recipient of its intention, in writing, at least 75 days before the end of the recipient's current program year or grant budget period. The notice shall inform the recipient that a tentative decision has been made to reject or reduce an application for refunding.

The notice shall state the reasons for the tentative decision to which the recipient shall address itself if it wishes to make a presentation as described in paragraphs (c) and (d) of this section.

(c) If the notice of tentative decision is based on any reasons, other than those described in paragraph (d) of this section, including, but not limited to, situations in which the recipient has ineffectively managed Agency resources or substantially failed to comply with agency policy and overall objectives under a contract or grant agreement with the Agency, the recipient shall be informed in the notice, of the opportunity to submit written material and to meet informally with an ACTION official to show cause why its application for refunding should not be rejected or reduced. If the recipient requests an informal meeting, such meeting shall be held on a date specified by ACTION. However, the meeting may not, without the consent of the recipient, be scheduled sooner than 14 days, nor more than 30 days, after ACTION has mailed the notice to the recipient. If the recipient requests an informal meeting, the meeting shall be scheduled by ACTION as soon as possible after receipt of the request. The official who shall conduct this meeting shall be an ACTION official who is authorized to finally approve or make the grant of assistance in question, or his designee.

(d) If the notice of tentative decision is based upon a specific charge of failure to comply with the terms and conditions of the grant or contract, alleging wrongdoing on the part of the recipient, the notice shall offer the recipient an opportunity for an informal hearing before a mutually agreed-upon impartial hearing officer. The authority of such hearing officer shall be limited to conducting the hearing and offering recommendations. ACTION will retain all authority to make the final determination as to whether the application should be finally rejected or reduced. If the recipient requests an informal hearing, such hearing shall be held at a date specified by ACTION. However, such hearing may not, without the consent of the recipient, be scheduled sooner than 14 days nor more